

OLC 75-0403

20 January 1975

MEMORANDUM FOR THE RECORD

SUBJECT: Agency Position on Unauthorized Disclosure Provisions
in S. 1, Codification of Criminal Laws

STATINTL

1. Together with [] OGC, met with Paul Summitt, Counsel, Subcommittee on Administrative Practice and Procedure, Senate Judiciary Committee, and Doug Marvin, staff member, Senate Judiciary Committee, and discussed section 1124, "disclosing classified information" in S. 1, and the proposed Agency legislation for the protection of intelligence sources and methods.

STATINTL

2. [] explained our problems with section 1124 and why it does not provide adequate protection to intelligence sources and methods. The primary objection was the provision in section 1124 requiring the establishment of an outside review agency to review department head decisions in matters of declassification. It was explained that this could result in conflict with the Director's statutory authority for the protection of sources and methods, and further that the criteria for classification (national defense and foreign policy) does not always cover circumstances where sources and methods protection is required. This conflict was recognized by Marvin and Summitt and they were not aware of the implications when this provision was included.

STATINTL

[] explained the unique protection requirements for intelligence sources and methods and the current language of our proposed legislation. We discussed certain changes to our proposal and to S. 1 to provide the Agency more protection. Marvin stated that S. 1 is the codification of all felonies throughout all Federal laws. He suggested that if our proposal makes the crime a misdemeanor, then he could try to have the proposal incorporated within S. 1 under a conforming amendment.

OGC Has Reviewed

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STATINTL

4. It was agreed that I [redacted] and I would make suggested changes to section 1124, and our proposal, and we would meet again to discuss the matter further. It was also understood that the Agency would follow two tracks on the proposed legislation. One with the Judiciary Committee on S. 1 and the other with OMB as separate legislation.

STATINTL

[redacted]

Assistant Legislative Counsel

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